The Systemic Risk Council

April 5, 2013

The Honorable Ben S. Bernanke
Chairman
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551

RE: Enhanced Prudential Standards and Early Remediation Requirements for Foreign Banking Organizations and Foreign Nonbank Financial Companies; Docket No. R-1438 and RIN 7100 AD 86

Dear Chairman Bernanke:

The Systemic Risk Council[1] is writing in support of the Federal Reserve's proposed rule regarding the supervision of foreign banking and nonbank financial operations (FBOs) in the United States. This proposed rule would implement the enhanced prudential standards and early remediation requirements of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) as they apply to FBOs. The rulemaking addresses one of our key priorities: immediate action to propose and finalize rules that will substantially strengthen both the quality and amount of capital at the largest financial institutions operating in the United States, in this case, foreign financial institutions.

In the years leading up to the financial crisis, FBOs increased their reliance on short-term, wholesale funding to support long-term assets and were even more highly leveraged than their U.S. counterparts. During the crisis and its aftermath, the Federal Reserve found it necessary to provide substantial funding to FBOs as part of its broader efforts to stabilize the U.S. financial system. As FBOs have become major players in the United States -- for example, five of the top 10 broker-dealers have non-U.S. parents -- they have come to pose the same type of potential risks to the U.S. system as do large, domestically-based financial institutions.

The business model for FBOs has also evolved and changed significantly. In the decade leading up to the crisis, the large majority of FBOs were net providers of significant funding to their foreign parents, providing crucial support to them. In addition, many non-U.S. banking systems remain under stress, suffering from troubled sovereigns, weak economies, and high degrees of leverage. Federal Reserve Governor Daniel Tarullo has questioned foreign banking organizations' ability to act as a source of strength for their FBOs saying, "...the likelihood that some home-country governments of significant international firms will backstop their banks' foreign operations in a crisis appears to have diminished."[2] Accordingly we agree with the Federal Reserve and can see no reason for a large,

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[1] Systemic Risk Council: The independent non-partisan Systemic Risk Council was formed by CFA Institute and the Pew Charitable Trusts to monitor and encourage regulatory reform of U.S. capital markets focused on systemic risk. The statements, documents and recommendations of the private sector, volunteer Council do not necessarily represent the views of the supporting organizations. The Council works collaboratively to seek agreement on all recommendations. This letter fairly reflects the consensus views of the Council, but does not bind individual members. www.systemicriskcouncil.org

[2] "Regulation of Foreign Banking Organizations," speech by Governor Daniel K. Tarullo at the Yale School of Management Leaders Forum, New Haven, Connecticut, November 28, 2012.

potentially systemic, FBO to be treated differently than a large, potentially systemic, domestic bank holding company. And, in fact, the Dodd-Frank Act requires generally equal treatment.

We also agree with the proposal's assertion that requiring an intermediate U.S. holding company for large FBOs will improve U.S. regulators' ability to remediate and resolve an FBO by creating a consolidated U.S. legal entity that can be easily spun off from a troubled parent or placed into receivership under Title II of the Dodd-Frank Act should it fail. While the Federal Deposit Insurance Corporation has been working closely with the Bank of England to establish cross-border resolution protocols, this proposal would dramatically simplify the FDIC's ability to address and resolve, if necessary, the U.S. operations of a troubled foreign banking organization.

This proposal strikes a reasonable and necessary balance that provides Federal Reserve supervision of FBOs that are potentially systemic on a par with large, potentially systemic, domestic bank holding companies and allows foreign bank branches to continue to operate in the United States.

Respectfully submitted,

Sheila C Bair

The Systemic Risk Council
www.systemicriskcouncil.org

Chair: Sheila Bair, The Pew Charitable Trusts, Former Chair of the FDIC
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John Rogers, CFA, President and Chief Executive Officer, CFA Institute
Chester Spatt, Tepper School of Business Carnegie Mellon University, Former Chief Economist, Securities and Exchange Commission

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cc: The Honorable Thomas Curry, Comptroller of the Currency
The Honorable Martin Gruenberg, Chairman of the Federal Deposit Insurance Corporation
The Honorable Daniel Tarullo, Federal Reserve Board of Governors